

Message Text

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ACTION SCI-06

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3752

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E.O. 11652: NA

TAGS: IAEA, TECH, AS

SUBJ: AUSTRALIAN PROTOCOL FOR SUSPENSION TRILATERAL
SAFEGUARDS AGREEMENT

REF: A) STATE 235676

B) STATE 238322

SUMMARY: IAEA SECRETARIAT (ROMETSCH AND STEIN) PREVIOUSLY
UNAWARE AUSTRALIAN "SUBSTITUTION" PROPOSAL BUT HAVE NO
OBJECTION INCLUSION PRINCIPLE OF PROPOSAL EITHER IN
SUSPENSION PROTOCOL ITSELF (PREFERRED) OR IN SEPARATE
LETTER. RATHER THAN REFERENCE TO PARA 26 (D) INFCIRC/
66/REV.2, HOWEVER, THEY SUGGEST SPELL OUT RELEVANT
LANGUAGE. THEY ALSO PREPARED EXTEND PRINCIPLE TO ANY
NNWS PARTY TO NPT, HAVING MATERIAL SUBJECT TO QUARANTY,
IF SUPPLYING PARTY AGREES. END SUMMARY

1. WHEN MISSION'S INITIAL INQUIRY TO SECRETARIAT
REVEALED THAT NEITHER ROMETSCH, OTSUKA NOR STEIN WERE
AWARE OF AUSTRALIAN "SUSPENSION" PROPOSAL,
MISSION CONTACTED HANNA OF
AUSTRALIAN MISSION. HANNA CONFIRMED THAT AS FAR AS
HE KNEW SPECIFIC PROPOSAL HAD NOT RPT NOT BEEN DISCUSSED
WITH SECRETARIAT, BUT THAT SECRETARIAT'S PREVIOUS
GENERAL EXPLANATION OF MECHANISM BY WHICH AUSTRALIA
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COULD "MAKE CLEAR" TO AGENCY PER ARTICLE 14 MAY HAVE

BEEN INTERPRETED BY NEGOTIATORS FROM CANBERRA TO INCLUDE PRINCIPLE OF "SUBSTITUTION".

2. HANNA, AFTER CHECKING WITH HIS AMBASSADOR, SUGGESTED THAT HE JOIN MINOFF IN DISCUSSION OF MATTER WITH ROMETSCH AND STEIN WHICH TOOK PLACE DEC 12.

3. DURING DISCUSSION, HANNA HANDED OUT COMPLETE TEXT ARTICLE 4 OF AUSTRALIAN DRAFT PROTOCOL RECEIVED BY DEPARTMENT AUGUST 14, 1973, OMITTING ONLY ARTICLE NUMBER, AND CORRECTING PUNCTUATION IN EIGHTH LINE PARA (I) SO THAT LINE READS "CO-OPERATION, PROVIDED THAT SUCH MATERIAL".

4. ROMETSCH SAID THAT HIS VIEW HAS ALWAYS BEEN THAT REQUIREMENT OF ARTICLE 14 WOULD BE SATISFIED AS LONG AS THE TOTAL QUANTITY OF THE SAME KIND OF MATERIAL REMAINING ON THE NPT SAFEGUARDS AGREEMENT INVENTORY FOR THE STATE CONCERNED EXCEEDS THE QUANTITY SUBJECT TO GUARANTEES. AUSTRALIAN PROPOSAL GOES STEP FURTHER, IN THAT ONE NEED NOT RPT NOT LOOK ONLY AT ACCOUNT FOR SAME KIND (I.E. SAME ELEMENT AND SAME QUALITY) OF MATERIAL, BUT PROVIDES MORE FLEXIBILITY. HE NOTED THAT PARA 26 (D) PERMITS SUBSTITUTION ONLY BY URANIUM OF THE SAME OR HIGHER ENRICHMENT AND THAT PLUTONIUM MAY ONLY BE SUBSTITUTED FOR URANIUM CONTAINING FIVE PER CENT OR LESS U-235. HE SAW NO PROBLEM IN AGENCY ACCEPTING THIS PRINCIPLE, IF USG WAS AGREEABLE.

5. STEIN SAW NO PROBLEM IN AGENCY FOLLOWING AUSTRALIAN SUGGESTED PRINCIPLE. HE EXPRESSED PREFERENCE FOR INCLUSION OF PRINCIPLE IN TEXT OF PROTOCOL RATHER THAN IN SEPARATE LETTER, IN INTEREST OF MINIMIZING FLOW AND ACCUMULATION OF PAPERS. HE THOUGHT AUSTRALIAN TEXT WAS AWKWARD FROM PRESENTATIONAL STANDPOINT, HOWEVER, AND MIGHT BE MADE MORE COMPREHENSIBLE. HE SPECIFICALLY NOTED THAT PHRASE "ON THE BASIS OF ARTICLE 26(D) OF INFCIRC/66/REV.2" WAS IMPRECISE AND CONFUSING, SINCE WHAT WAS MEANT WAS THAT THE SAME TECHNICAL "RULES" DEFINING MATERIALS WHICH MAY BE SUBSTITUTED, ETC., ARE TO APPLY. HE LIMITED OFFICIAL USE

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THOUGHT IT WOULD MAKE PRESENTATION MORE COMPREHENSIBLE IF THOSE "RULES" WERE SPELLED OUT IN TEXT ITSELF. THIS WOULD, AT SAME TIME, AVOID NEED FOR REFERENCE TO INFCIRC/66 IN DOCUMENT CONCERNED WITH IMPLEMENTATION OF AGREEMENT PURSUANT TO INFCIRC/153.

6. HANNA NOTED THAT AUSTRALIA PREFERRED INCLUDE "SUBSTITUTION" PRINCIPLE LANGUAGE IN PROTOCOL ITSELF

RATHER THAN IN SEPARATE LETTER. HE TOOK NOTE OF
STEIN'S COMMENTS RE DRAFTING.

7. ROMETSCH AND STEIN AGREED THAT, IF PRINCIPLE
MADE AVAILABLE TO AUSTRALIA, AGENCY WOULD HAVE NO
BASIS FOR DENIAL ITS USE BY ANY NNWS PARTY TO NPT
HAVING MATERIAL SUBJECT TO GUARANTY, IF SUPPLYING STATE
AGREES. THIS COULD BE DONE BY EXCHANGE OF LETTERS.

8. SUBSEQUENTLY, MINOFF QUERIED ROMETSCH RE AGENCY
USE OF PRINCIPLE IN "ALL CASES" (PER PARA 2 REFTTEL A).
HE SAID THAT, AT PRESENT, QUESTION ONLY APPLIED TO
SUSPENDED US AND UK TRILATERALS. HIS INITIAL REACTION
WAS THAT, IF USG INFORMED HIM THAT THERE WAS NO OBJECTION
TO AGENCY APPLYING PRINCIPLE IN ALL CASES OF PROTOCOLS
SUSPENDING US TRIALATERALS, AGENCY WOULD PROCEED ON
THAT BASIS. PRESUMABLY, AGENCY WOULD MERELY INFORM
OTHER PARTIES TO PROTOCOLS BY LETTER. SIMILAR PROCEDURE
COULD BE FOLLOWED BY UK. HE WAS NOT RPT NOT PREPARED,
WITHOUT FURTHER CONSIDERATION, TO SAY WHETHER AGENCY
COULD SIMPLY ADOPT PRINCIPLE AS MATTER OF POLICY FOR
PURPOSES OF IMPLEMENTATION ARTICLE 14. PORTER

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